

## Public consultation: Regulation of health practitioners who perform and who advertise non-surgical cosmetic procedures

The Australian Health Practitioner Regulation Agency (Ahpra) and the National Boards are reforming the regulation of registered health practitioners who work in the non-surgical cosmetic procedures sector in Australia to improve practice and standards, public safety, and provide opportunities for more informed consumer choice. Ahpra and the National Boards are consulting on three documents related to the regulation of registered health practitioners who provide and who advertise non-surgical cosmetic procedures:

1. Guidelines for nurses who perform non-surgical cosmetic procedures (nurses practice guidelines—applies to nurses only)
2. Guidelines for registered health practitioners who perform non-surgical cosmetic procedures (shared practice guidelines – excluding medical practitioners and nurses), and
3. Guidelines for registered health practitioners who advertise non-surgical cosmetic procedures (advertising guidelines – applies to all registered health practitioners).

The three proposed draft guidelines are intended to set out what National Boards expect of registered health practitioners working and advertising in this sector and provide clarity for consumers considering non-surgical cosmetic procedures about the standards expected of practitioners.

As the three proposed draft guidelines are all related to non-surgical cosmetic procedures, Ahpra and the National Boards are consulting on all three guidelines together. Feedback is welcome on any or all of the three draft guidelines.

We welcome feedback from organisations, registered health practitioners and the public.

There are some initial demographic questions and then questions on each of the guidelines we are consulting on. All questions are optional, and you are welcome to respond to any you find relevant, or that you have a view on.

The consultation questions are different in some sections as National Boards are intentionally consulting on the questions most relevant to the professions they regulate.

Your feedback will help us to understand your views and help National Boards set clear standards for registered health practitioners in the non-surgical cosmetic procedures sector, for the protection of the public.

Please email your submission to [AhpraConsultation@ahpra.gov.au](mailto:AhpraConsultation@ahpra.gov.au)

Consultation is open for 10 weeks. The submission deadline is close of business **2 February 2024**.

### How do we use the information you provide?

The survey is voluntary. All survey information collected will be treated confidentially and anonymously. Data collected will only be used for the purposes described above.

We may publish data from this survey in all internal documents and any published reports. When we do this, we ensure that any personal or identifiable information is removed.

We do not share your personal information associated with our surveys with any party outside of Ahpra except as required by law.

Australian Health Practitioner Regulation Agency  
National Boards  
GPO Box 9958 Melbourne VIC 3001 [Ahpra.gov.au](http://Ahpra.gov.au) 1300 419 495

Ahpra and the National Boards regulate these registered health professions: Aboriginal and Torres Strait Islander health practice, Chinese medicine, chiropractic, dental, medical, medical radiation practice, midwifery, nursing, occupational therapy, optometry, osteopathy, paramedicine, pharmacy, physiotherapy, podiatry and psychology.

The information you provide will be handled in accordance with [Ahpra's privacy policy](#).

If you have any questions, you can contact [AhpraConsultation@ahpra.gov.au](mailto:AhpraConsultation@ahpra.gov.au) or telephone us on **1300 419 495**.

### Publication of submissions

We publish submissions at our discretion. We generally [publish submissions on our website](#) to encourage discussion and inform the community and stakeholders about consultation responses. Please let us know if you do not want your submission published.

We will not publish on our website, or make available to the public, submissions that contain offensive or defamatory comments or which are outside the scope of the subject of the consultation. Before publication, we may remove personally identifying information from submissions, including contact details.

We can accept submissions made in confidence. These submissions will not be published on the website or elsewhere. Submissions may be confidential because they include personal experiences or other sensitive information. A request for access to a confidential submission will be determined in accordance with the *Freedom of Information Act 1982* (Cth), which has provisions designed to protect personal information and information given in confidence. Please let us know if you do not want us to publish your submission or if you want us to treat all or part of it as confidential.

**Published submissions will include the names of the individuals and/or the organisations that made the submission unless confidentiality is expressly requested.**

#### Initial questions:

*To help us better understand your situation and the context of your feedback, please provide us with some details about you.*

#### Question A

**Are you completing this submission on behalf of an organisation or as an individual?**

☒ Organisation

Name of organisation: MDA National

Contact email: [REDACTED]

☐ Individual

Name: [Click or tap here to enter text.](#)

Name of organisation: [Click or tap here to enter text.](#)

Contact email: [Click or tap here to enter text.](#)

#### Question B

If you are completing this submission as an individual, are you:

☐ A registered health practitioner?

Profession: [Click or tap here to enter text.](#)

☐ A consumer / patient?

☐ Other – please describe: [Click or tap here to enter text.](#)

☐ Prefer not to say

### Question C

Do you work in the cosmetic surgery/procedures sector?

- ☒ No
- ☐ Yes – I perform cosmetic surgery
- ☐ Yes – I perform cosmetic procedures (e.g. cosmetic injectable such as botulinum toxin and dermal fillers)
- ☐ Yes – I work in the area but do not perform surgery or procedures (e.g. practice manager, non-clinical employee)
- ☐ Prefer not to say

### Question D

Do you give permission for your submission to be published?

- ☐ Yes, publish my submission **with** my name/organisation name
- ☒ Yes, publish my submission **without** my name
- ☐ Yes, publish my submission **without** organisation name
- ☐ Yes, publish my submission **without** both my name and organisation name
- ☐ No – **do not** publish my submission

## Guidelines for nurses who perform non-surgical cosmetic procedures

### Consultation questions:

The Nursing and Midwifery Board of Australia (the NMBA) is developing draft nurses practice guidelines at Attachment A of the consultation paper to enable the terminology in the guidelines to be nuanced for nurses, and to delineate the separate roles and scope of enrolled nurses, registered nurses and nurse practitioners in the non-surgical cosmetic procedures sector.

#### Question 1:

Is the guidance in the draft nurses practice guidelines appropriate? Why/Why not?

#### **Your answer:**

Whilst section nurses doing BDD assessment (2.3), and consent (s5), are appropriate and detailed, MDAN submits that this is a duplication as the medical practitioner would have completed the assessment and fully consented the patient. We submit that the medical practitioner prescriber or the nurse practitioner (be performing the assessment and consent the patient.

#### Question 2:

Does the guidance in the draft nurses practice guidelines sufficiently inform **nurses** about the NMBA's expectations of nurses (including enrolled nurses (EN), registered nurses (RN) and nurse practitioners (NP)) who perform non-surgical cosmetic procedures in Australia? If yes, how? If no, what needs to be changed?

#### **Your answer:**

Yes, except for the following:

- a) Please see comment above (Q1).
- b) Detailed description of roles, responsibilities, and requirements for ENs should be noted separately. Expanding on section 17.

#### Question 3:

Does the guidance in the draft nurses practice guidelines sufficiently inform the **public** about the NMBA's expectations of nurses (including enrolled nurses (ENs), registered nurses (RNs) and nurse practitioners (NPs) who perform non-surgical cosmetic procedures in Australia?

#### **Your answer:**

Yes, except ENs.

#### Question 4:

In **section 4.2**, the draft nurses practice guidelines propose that *'the registered nurse and/or the nurse practitioner must consider the clinical appropriateness of the cosmetic procedure for a person who is under the age of 18 years. The NMBA considers that botulinum toxin and dermal fillers should not be prescribed for persons under the age of 18 for cosmetic purposes.'*

Is this information clear? If not, why not?

#### **Your answer:**

No - it is not definitive as the first sentence states that nurses must consider the 'appropriateness' of cosmetic procedures, whereas the second sentence states that fillers 'should not' be prescribed. This guideline is ambiguous.

**Question 5:**

Is there anything further you believe should be included in section 4?

**Your answer:**

No

**Question 6:**

In **section 8.1**, the draft nurses practice guidelines propose *'the RN/NP is responsible for ensuring that any other person/s participating in the person's care or treatment have appropriate education, training and competence, and is adequately supervised as required'*.

Is this a reasonable requirement? If yes, why? If not, why not?

**Your answer:**

No - in some instances, a doctor may direct care which is outside the control of the nurse. The NMBA could instead recommend that information sheets must be provided to carers for each procedure.

**Question 7:**

In **section 16.1**, the draft nurses practice guidelines propose *'that RNs first practise for a minimum of one-year full-time equivalent post initial registration, to consolidate the foundational skills and knowledge as an RN in a general or specialist area of nursing practice (not in the area of non-surgical cosmetic procedures). RNs who perform non-surgical cosmetic procedures are required to undertake detailed assessment and planning of care, have complex anatomical and physiology knowledge as well as decision-making relating to pharmacodynamics and pharmacokinetics'*.

Is the guidance proposed a reasonable requirement? If not, why not?

**Your answer:**

Yes – this is essential for patient safety, provides nurse career options down the track, and is in line with many health professional career paths. This guideline also endeavours to ensure consistency of care.

**Question 8:**

Is there any further detail that needs to be included in the draft nurses practice guidelines to ensure public safety? If yes, please provide details.

**Your answer:**

Please see comments above regarding ENs (Q1 and Q2).

Regarding section 5.4 - consent forms should be dated as well as being signed.

## Guidelines for registered health practitioners who perform non-surgical cosmetic procedures.

### Consultation questions:

The proposed draft shared practice guidelines (at Attachment B of the consultation paper) will apply to all registered health practitioners, except for medical practitioners (who are already subject to the Medical Board of Australia's (the MBA) *Guidelines for registered medical practitioners who perform cosmetic surgery and procedures*) and nurses (who will be required to comply with the draft *Guidelines for nurses who perform non-surgical cosmetic procedures*, if approved).

#### **Question 9:**

Is the guidance in the draft shared practice guidelines appropriate? Why/why not?

#### **Your answer:**

MDAN is not commenting on this proposed guideline as it does not relate to medical practitioners or nurses.

#### **Question 10:**

Does the guidance in the draft shared practice guidelines sufficiently inform **registered health practitioners** about National Boards' expectations when performing non-surgical cosmetic procedures in Australia? Yes/No. If no, what needs to be changed?

#### **Your answer:**

#### **Question 11:**

Is the guidance in the draft shared practice guidelines useful for the **public** to understand National Boards' expectations of registered health practitioners who perform non-surgical cosmetic procedures in Australia? Yes/No. If no, what would be more helpful?

#### **Your answer:**

#### **Question 12:**

Is there anything you believe should be added to or removed from the definition of 'non-surgical cosmetic procedures' as it currently appears in the draft shared practice guidelines?

What changes do you propose and why?

#### **Your answer:**

#### **Question 13:**

The draft shared practice guidelines propose a set of consistent requirements for practitioners practising in this sector.

Do you think it's appropriate for consistent requirements to apply to all practitioners practising in this sector regardless of their profession? Or do you think there are variations, additions or exclusions required for a particular profession or professions?

What changes do you propose and why?

#### **Your answer:**

#### **Question 14:**

While it is acknowledged that many people who seek non-surgical cosmetic procedures do not have an underlying psychological condition such as body dysmorphic disorder (BDD), the Medical Board of Australia's practice guidelines and the Nursing and Midwifery Board of Australia's proposed guidelines require medical practitioners and nurses who perform the cosmetic procedure or prescribe the cosmetic injectable, to assess their patients for underlying psychological conditions, such as BDD.

Is this a reasonable requirement of other registered health practitioners performing cosmetic procedures as well? If yes, why? If not, why not?

**Your answer:**

**Question 15:**

Is there any further detail that needs to be included in the draft shared practice guidelines to ensure public safety? If yes, please provide details.

**Your answer:**

## Guidelines for registered health practitioners who advertise non-surgical cosmetic procedures

### Consultation questions:

The proposed draft advertising guidelines (at Attachment C of the consultation paper) will apply to all registered health practitioners who advertise non-surgical cosmetic procedures.

#### **Question 16:**

Is the guidance in the draft advertising guidelines appropriate? Why/why not?

#### **Your answer:**

Yes - the guidance is detailed, comprehensive and in line with guidelines for the advertisement of cosmetic surgery.

#### **Question 17:**

Does the guidance in the draft advertising guidelines sufficiently inform **registered health practitioners** about National Boards' expectations when advertising non-surgical cosmetic procedures? Yes/No. If no, what needs to be changed?

#### **Your answer:**

Yes - the draft guidelines are appropriate and consistent with Apha's Guidelines for advertising a regulated health service.

#### **Question 18:**

Is the guidance in the draft advertising guidelines useful for the **public** to understand National Boards' expectations of registered health practitioners who advertise non-surgical cosmetic procedures in Australia? Yes/No. If no, what would be more helpful?

#### **Your answer:**

Yes - the draft guidelines are comprehensive and enable the public to be fully informed.

#### **Question 19:**

Is there any further detail that needs to be included in the draft advertising guidelines to ensure public safety? If yes, please provide details.

#### **Your answer:**

No

*The definition of 'non-surgical cosmetic procedures' in the draft advertising guidelines includes examples of what are considered non-surgical cosmetic procedures and includes procedures that are restricted to the practice of registered health practitioners as well as procedures that may be performed by people who are not registered health practitioners. This decision was made to promote consistency between the various guidelines which regulate both the practice and advertising of non-surgical cosmetic procedures and cosmetic surgery.*

#### **Question 20:**

Is the definition of 'non-surgical cosmetic procedures' in the draft advertising guidelines appropriate when setting standards for the advertising of non-surgical cosmetic procedures by regulated health practitioners? Why/why not?



**Your answer:**

MDA submits that the examples be amended as follows: "...include but is not limited to cosmetic injectables ...'

The definition is unclear as it first states 'does not involve cutting beneath the skin', but later references mole removal as being included, even though such a procedure involves cutting beneath the skin. The examples of types of procedures are helpful but it should be noted that it is not exhaustive.

**Question 21:**

Is there anything you believe should be added to or removed from the definition of 'non-surgical cosmetic procedures' as it currently appears in the draft advertising guidelines?

What changes do you propose?

**Your answer:**

Please see above comments.

**About IV infusion treatments:**

Ahpra and the National Boards are aware of concerns about the advertising of IV infusion treatments and have issued previous statements in relation to this. IV infusions, like non-surgical cosmetic procedures, are invasive procedures with inherent health and safety risks for patients.

While IV infusion treatments are not strictly a non-surgical cosmetic procedure, many advertisers quote their patients as looking or feeling better after an infusion. Ahpra takes the view that there is little or no accepted evidence to support such generalised claims, and that claims about general improvements in health, wellness, anti-ageing or appearance are therefore misleading and in breach of the National Law. As with any regulated health service claims made about the benefits of IV infusions must be accurate and not misleading. This is because consumers are likely to rely on purported scientific claims and be significantly influenced by such claims, when making health care choices.

While these draft guidelines are focused on the advertising of non-surgical cosmetic procedures, we welcome feedback on whether separate guidelines should be developed in relation to the advertising of IV infusion treatments.

**Question 22:**

Do you support the development of separate guidelines in relation to the advertising of IV infusion treatments? Why/why not?

**Your answer:**

Yes - MDA National supports separate advertising guidelines for IV infusion treatment.

There may be difficulty in defining a 'non-surgical cosmetic' IV infusion. Providers may seek to argue that the infusion is administered for a clinical purpose, for example, management of headaches.

It is essential the public are fully aware of the clinical imperative for treatment and whether the procedure is evidence based.

**Question 23:**

If you support the development of separate guidelines in relation to the advertising of IV infusion treatments, what do you believe should be contained within these guidelines?

**Your answer:**

The guidelines should include the following:

- that IV iron infusions include the risk of iron staining
- a requirement that informed consent is obtained and documented
- the consenting process should include the need for treatment, material risks and benefits
- financial consent must be obtained, and
- rigorous requirements regarding advertising with a focus on misleading and deceptive advertising.

**Question 24:**

Do you have any other feedback about the draft practice guidelines and draft advertising guidelines for non-surgical cosmetic procedures?

**Your answer:**

No

Thank you for the opportunity to provide a submission in relation to the '*Ahpra – Public Consultation Paper - Regulation of Health Practitioners who perform and who advertise non-surgical cosmetic procedures*'.

MDA National (MDAN) is a doctor-owned medical indemnity insurer that exists only to support and protect our Members and promote good medical practice. We provide the highest level of medico-legal expertise and extensive cover - because that is our core focus. Supporting our Members since 1925, we remain committed to offering expert advice and personalised service which our Members need to keep on practising with confidence and providing outstanding patient care. We work in close partnership with the medical profession on issues which impact medical practice.

Should you have any questions in relation to this submission, please do not hesitate to contact me.

Yours sincerely



**MDA National**